

MDR Tracking Number: M5-04-1803-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on February 17, 2004.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The physical performance test and Work Hardening were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 11th day of May 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 02/18/03 through 03/19/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 11th day of May 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

PR/pr

April 20, 2004

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IRO Certificate # 5259

An independent review of the above-referenced case has been completed by chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ____ or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

____ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ____.

CLINICAL HISTORY

____ a 34-year-old male, sustained injuries to his lower back and left knee while working as an electrician. He apparently caught his left leg in some cables while running cable lines through a pipe. He lost his balance and fell backwards of a 7 ft. ladder, landing on his buttocks. He went to the emergency room and after discharge presented to ____, a chiropractor. He underwent a standard course of conservative care which helped improve his situation, then following a functional capacity evaluation, was referred for work hardening.

The patient was sent for second opinion consult on 12/09/02 with ____ an orthopedist who did not feel the patient was a surgical candidate with respect to his lower back or left knee. He felt that the patient was improving with physical therapy / conservative care and encouraged continuation with this plan. The patient was next seen for designated doctor purposes on 01/09/03 to ____ an orthopedist who found the patient was not at MMI and required further therapy.

The patient then entered a work hardening program on 01/20/03. His occupational physical demand capacity was medium/heavy (75 lbs.) and he was functioning at light-medium (40 lbs.) level with poor endurance and a severe (52/100) pain rating score on the Oswestry disability Index. His physical capacity level improved to a medium (60 lbs.) with full range of motion to the left knee, and improvement on the Oswestry score to 24/100. Additional weeks were requested and that the end of the eighth week the patient to achieve the medium heavy physical mild capacity (85 lbs.) with full range motion and was released to the treating doctor with recommendation of return to work without restrictions.

The patient had a neurological consult on 4/28/03 with _____. He did not feel the patient was a surgical candidate and may benefit from continued physical therapy for symptomatic relief with consideration for ESI. _____ revisited the patient on 4/19/03 and found him to be at MMI with a 9% whole person impairment rating, comprised of 5% DRE category II in the lumbar spine and range of motion deficits in the left knee. This opinion was confirmed by a peer review (_____ orthopedic surgeon) on 5/30/03.

REQUESTED SERVICE (S)

Physical Performance Test and Work Hardening for dates of service 2/18/03 – 3/19/03

DECISION

Medical necessity is established for physical performance test and work hardening.

RATIONALE/BASIS FOR DECISION

The standard of medical necessity in Workers Comp, according to the Texas labor code 408.021 (entitlement to medical benefits) is that an employee who sustained a compensable injury is entitled to all healthcare reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to healthcare that: (1) cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment.

The documentation described above clearly establishes that the care provided satisfies all of the above three mandates of medical necessity. There is clear progression / response to treatment, with appropriate deviation to the program as improvement was obtained. The patient was recommended for full duty after an appropriate and effective course of care was administered.

In conclusion, the work hardening clearly appears to have been provided within the parameters of current clinical standards.

The above analysis is based solely upon the medical records/tests submitted. It is assumed that the material provided is correct and complete in nature. If more information becomes available at a later date, an additional report may be requested. Such may or may not change the opinions rendered in this evaluation. Opinions are based upon a reasonable degree of medical probability and are totally independent of the requesting client.